



General Assembly

February Session, 2008

Amendment

LCO No. 5446

HB0587705446HDO

Offered by:
REP. LAWLOR, 99th Dist.

To: Subst. House Bill No. 5877 File No. 473 Cal. No. 257

"AN ACT CONCERNING TERMS OF PROBATION."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Subsection (b) of section 53a-31 of the general statutes, as
4 amended by section 36 of public act 08-1 of the January special session,
5 is repealed and the following is substituted in lieu thereof (*Effective*
6 *from passage*):

7 (b) Issuance of a warrant or notice to appear for violation pursuant
8 to section 53a-32 shall interrupt the period of the sentence as of the
9 date of such issuance until a final determination as to the violation has
10 been made by the court. During the interrupted period, [unless
11 otherwise ordered by the court, the defendant shall comply with any
12 conditions imposed or with any conditions he or she was previously
13 required to comply pursuant to section 53a-30] the court may impose
14 any of the conditions of release set forth in section 54-64a. In the
15 absence of a warrant or notice to appear for violation pursuant to

16 section 53a-32, if the defendant has failed to comply with any of the
17 conditions of probation or conditional discharge, such failure shall not
18 relieve the Court Support Services Division from the responsibility of
19 supervising the defendant.

20 Sec. 502. Section 53a-31 of the general statutes, as amended by
21 section 36 of public act 08-1 of the January special session and section
22 501 of this act, is repealed and the following is substituted in lieu
23 thereof (*Effective October 1, 2008*):

24 (a) A period of probation or conditional discharge commences on
25 the day it is imposed, except that, where it is preceded by a sentence of
26 imprisonment with execution suspended after a period of
27 imprisonment set by the court, it commences on the day the defendant
28 is released from such imprisonment. Multiple periods, whether
29 imposed at the same or different times, shall run concurrently.

30 (b) Issuance of a warrant or notice to appear for violation pursuant
31 to section 53a-32, as amended by this act, shall interrupt the period of
32 the sentence as of the date of such issuance until a final determination
33 as to the violation has been made by the court. [During the interrupted
34 period, the court may impose any of the conditions of release set forth
35 in section 54-64a.] In the absence of a warrant or notice to appear for
36 violation pursuant to section 53a-32, as amended by this act, if the
37 defendant has failed to comply with any of the conditions of probation
38 or conditional discharge, such failure shall not relieve the Court
39 Support Services Division from the responsibility of supervising the
40 defendant.

41 (c) Notwithstanding the issuance of a warrant or notice to appear
42 for violation pursuant to section 53a-32, as amended by this act, the
43 defendant shall continue to comply with the conditions with which the
44 defendant was previously required to comply pursuant to section 53a-
45 30. The Court Support Services Division shall make reasonable efforts
46 to inform the defendant of the defendant's obligation to continue to
47 comply with such conditions and to provide the defendant with a copy

48 of such conditions.

49 [(c)] (d) In any case where a person who is under a sentence of
50 probation or of conditional discharge is also under an indeterminate
51 sentence of imprisonment, or a sentence authorized under section 18-
52 65a or 18-73, imposed for some other offense by a court of this state,
53 the service of the sentence of imprisonment shall satisfy the sentence of
54 probation or of conditional discharge unless the sentence of probation
55 or of conditional discharge is revoked prior to parole or satisfaction of
56 the sentence of imprisonment.

57 Sec. 503. Section 53a-32 of the general statutes is repealed and the
58 following is substituted in lieu thereof (*Effective October 1, 2008*):

59 (a) At any time during the period of probation or conditional
60 discharge, the court or any judge thereof may issue a warrant for the
61 arrest of a defendant for violation of any of the conditions of probation
62 or conditional discharge, or may issue a notice to appear to answer to a
63 charge of such violation, which notice shall be personally served upon
64 the defendant. Any such warrant shall authorize all officers named
65 therein to return the defendant to the custody of the court or to any
66 suitable detention facility designated by the court. Whenever a
67 defendant has, in the judgment of such defendant's probation officer,
68 violated the conditions of such defendant's probation, the probation
69 officer may, in lieu of having such defendant returned to court for
70 proceedings in accordance with this section, place such defendant in
71 the zero-tolerance drug supervision program established pursuant to
72 section 53a-39d. Whenever a sexual offender, as defined in section
73 54-260, has violated the conditions of such person's probation by
74 failing to notify such person's probation officer of any change of such
75 person's residence address, as required by said section, such probation
76 officer may notify any police officer that such person has, in such
77 officer's judgment, violated the conditions of such person's probation
78 and such notice shall be sufficient warrant for the police officer to
79 arrest such person and return such person to the custody of the court
80 or to any suitable detention facility designated by the court. Any

81 probation officer may arrest any defendant on probation without a
82 warrant or may deputize any other officer with power to arrest to do
83 so by giving such other officer a written statement setting forth that the
84 defendant has, in the judgment of the probation officer, violated the
85 conditions of the defendant's probation. Such written statement,
86 delivered with the defendant by the arresting officer to the official in
87 charge of any correctional center or other place of detention, shall be
88 sufficient warrant for the detention of the defendant. After making
89 such an arrest, such probation officer shall present to the detaining
90 authorities a similar statement of the circumstances of violation.
91 Provisions regarding release on bail of persons charged with a crime
92 shall be applicable to any defendant arrested under the provisions of
93 this section. Upon such arrest and detention, the probation officer shall
94 immediately so notify the court or any judge thereof.

95 (b) When the defendant is presented for arraignment on the charge
96 of violation of any of the conditions of probation or conditional
97 discharge, the court shall review any conditions previously imposed
98 on the defendant and may order, as a condition of the pretrial release
99 of the defendant, that the defendant comply with any or all of such
100 conditions in addition to any conditions imposed pursuant to section
101 54-64a. Unless the court, pursuant to subsection (c) of section 54-64a,
102 orders that the defendant remain under the supervision of a probation
103 officer or other designated person or organization, the defendant shall
104 be supervised by the Court Support Services Division of the Judicial
105 Branch in accordance with subsection (a) of section 54-63b.

106 (c) [Thereupon,] Upon notification by the probation officer of the
107 arrest of the defendant or upon an arrest by warrant as herein
108 provided, the court shall cause the defendant to be brought before it
109 without unnecessary delay for a hearing on the violation charges. At
110 such hearing the defendant shall be informed of the manner in which
111 such defendant is alleged to have violated the conditions of such
112 defendant's probation or conditional discharge, shall be advised by the
113 court that such defendant has the right to retain counsel and, if
114 indigent, shall be entitled to the services of the public defender, and

115 shall have the right to cross-examine witnesses and to present evidence
116 in such defendant's own behalf. Unless good cause is shown, a charge
117 of violation of any of the conditions of probation or conditional
118 discharge shall be disposed of or scheduled for a hearing not later than
119 one hundred twenty days after the defendant is arraigned on such
120 charge.

121 [(b)] (d) If such violation is established, the court may: (1) Continue
122 the sentence of probation or conditional discharge; (2) modify or
123 enlarge the conditions of probation or conditional discharge; (3) extend
124 the period of probation or conditional discharge, provided the original
125 period with any extensions shall not exceed the periods authorized by
126 section 53a-29; or (4) revoke the sentence of probation or conditional
127 discharge. If such sentence is revoked, the court shall require the
128 defendant to serve the sentence imposed or impose any lesser
129 sentence. Any such lesser sentence may include a term of
130 imprisonment, all or a portion of which may be suspended entirely or
131 after a period set by the court, followed by a period of probation with
132 such conditions as the court may establish. No such revocation shall be
133 ordered, except upon consideration of the whole record and unless
134 such violation is established by the introduction of reliable and
135 probative evidence and by a preponderance of the evidence."